THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.5417 of 2006

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the order of the first respondent in proceedings Roc.No.CS1/2/Revisions/2002 dated 15.2.2003 as arbitrary and illegal.

It appears, petitioner was the authorized fair price shop dealer of Shop No.21, Srinivasapuram village, Jangareddygudem mandal, West Godavari district. While so, his authorization was cancelled by the third respondent-Revenue Divisional Officer vide proceedings dated 13.5.2002 on the ground that 10 quintals of rice meant for distribution under Food for Work programme was found being transported to the black market through cycle rickshaws from the petitioner's fair price shop. It seems, the fourth respondent-Mandal Revenue Officer submitted a report to the third respondent and on the basis of the said report, the third respndent issued a show cause notice to the petitioner and petitioner submitted his explanation to the said show cause notice. Since the explanation offered by the petitioner was not satisfactory, the third respondent passed impugned cancellation order dated 13.5.2002 holding that it is proved that the dealer has violated clause 4 and condition 16(4) and the accounts of rice are not maintained properly, which has given scope to transport to the open market and the same is violative of clause 4 of A.P. Scheduled Commodities (Regulation of Distribution by Card System) Control Order, 1973. Aggrieved by the same, petitioner carried the matter in appeal before the second respondent-Joint Collector. The second respondent dismissed the appeal vide order dated 6.7.2002. Aggrieved by the same, petitioner further carried the matter in revision before the first respondent-District Collector. The first respondent also dismissed the revision vide order dated 15.2.2003 confirming the orders passed by respondents 2 and 3. Aggrieved by the same, the present writ petition is filed.

Heard both sides.

The only allegation against the petitioner is that the dealer has not distributed the rice meant for Food for Work programme to the beneficiaries to a tune of 10 quintals for the month of January 2002 and on verification it was found that there is a deficit in the stock to an extent of 2.63 quintals. A show cause notice was issued to the petitioner stating that 10 quintals of rice meant for distribution among the cardholders under Food for Work programme was transported to the open market on rickshaws without making entries in the sales register. The petitioner submitted his explanation stating that while he is proceeding to Mandal Revenue Office, he directed Jayavarapu Srinivas and others to take delivery of the said rice from his father who is available in the shop and since his father is an illiterate, entries could not be made. The rice was delivered against valid coupons and he cannot be held responsible for the mis-utilisation of rice by the beneficiaries since he has no control over them. But the third respondent has not taken into consideration of all these aspects and cancelled the authorization of the petitioner. The appellate authority also simply noted that 10 quintals of rice were being transported to black market and dismissed the appeal, which was also confirmed by the revisional authority.

Absolutely there is no evidence to show that the rice was transported to black-market. There is no dispute as to furnishing of valid coupons against delivery of 10 quintals of rice. Both appellate authority and revisional authority have not taken into consideration of this aspect while passing the orders. The findings of the third respndent are self-contradictory. At one stage, it was stated that 10 quintals of rice was being transported to black market without maintaining the accounts properly and at another stage, it was stated that there was deficit of 2.63 quintals of rice. Further, absolutely there is no discussion as to how these 10 quintals of rice were taken into black market. No person with such information was examined in the enquiry conducted by the third respondent. Only on the basis of the report of the fourth respndent, the matter was proceeded with. I am of the opinion that the order passed by the third respondent as confirmed by the respondents 1 and 2 are in gross violation of principles of natural justice and therefore, the same are liable to be set aside.

In the result, the writ petition is allowed and the order passed by the third respondent dated 13.5.2002 as confirmed by the second respondent vide order dated 6.7.2002 and further confirmed by the first respndent vide order dated 15.2.2003 are set aside and the matter is remitted back to the third respondent for fresh consideration of the matter after hearing the petitioner in this regard and permitting him to cross-examine the witnesses, if any. The third respondent shall conduct and complete the enquiry within a period of eight weeks from the date of receipt of a copy of this order. If enquiry is not completed within the said period, the authorization of the petitioner shall stand restored automatically. No order as to costs.

_____

C.V.RAMULU, J

Date: 26.12.2006

DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

26.12.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH

AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.5417 of 2006

Date: 26th December, 2006

Between:

M.Gangadhara Rao

.. Petitioner

And

The District Collector,

West Godavari district, at Eluru

and others.

.. Respondents